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E.O. 12958: DECL: 01/21/2019
TAGS: [PREL](#) [PREF](#) [PHUM](#) [UNHCR](#)
SUBJECT: UNHCR WILLING TO ASSIST WITH GUANTANAMO DETAINEES

Classified By: RMA Counselor Peter Mulrean for Reasons 1.4 (b & d)

¶1. (C) SUMMARY. The Office of the United Nations High Commissioner for Refugees (UNHCR) has expressed a willingness to assist the USG, if the USG so desires, in finding durable solutions for some individuals currently detained at Guantanamo. UNHCR could undertake an assessment of detainees' protection needs and refer specific individuals that fall within UNHCR's mandate for third country resettlement. Such referrals may facilitate the ability of some third countries to accept detainees. UNHCR would need access to case information and eventually to individuals directly. END SUMMARY.

¶2. (U) On January 22, 2009, UNHCR's Assistant High Commissioner for Protection Erika Feller, Director for the Division of International Protection Services George Okoth-Obbo, Director of the Americas Bureau Merida Morales-O'Donnell, Deputy Director of the Americas Bureau Eva Demant, and Legal Officer Maria Bances del Rey met with RMA Counselor, Mission Legal Adviser and RMA Attache to discuss the issue of detainees at Guantanamo. The meeting was requested by Feller.

¶3. (C) Feller reported that several countries (including France) have recently approached UNHCR to understand what role UNHCR might play in providing durable solutions to Guantanamo detainees given the expected new US decisions regarding these issues. She noted recent press reports suggesting that various third countries (such as Sweden, Finland, Germany, Portugal, the Czech Republic and Switzerland) may be willing to accept detainees for resettlement. Some of these countries, like Sweden, would reportedly expect UNHCR to play an intermediary role in the process by formally referring resettlement cases to them for consideration.

¶4. (C) Feller explained that UNHCR is not seeking a role for itself in this matter, but stands ready to help both as a friend of the US and an interested party in finding resettlement solutions for those unable to return to their countries of origin. (Comment: UNHCR has expressed a similar willingness in the past and at times there has been dialogue with UNHCR about the role it might play, but these discussions stalled over information sharing and other issues. End Comment.) UNHCR's starting point is that the USG has the primary responsibility for providing detainees with protection and durable solutions. However, UNHCR is willing to assist the USG in assessing and determining individuals' protection needs through refugee status determinations. UNHCR may also be able to help the USG find third country resettlement arrangements for individuals. The caveats presented by Feller are: 1) UNHCR would only assist with cases that fall under its mandate (or at least are not excluded from its mandate); 2) UNHCR would need access to case file information to determine who the individuals are and what their protection needs are; and 3) UNHCR would eventually need access to interview individuals it believed had protection needs in order to make a final determination.

¶5. (C) Under international refugee law, to fall within UNHCR's mandate, detainees would need to meet the legal definition of a "refugee" and not be legally deemed excludable (due to having committed serious war crimes, for example). Feller said that several lawyers for Guantanamo detainees had approached UNHCR with a list of 60 detainees whom the lawyers believed had a legitimate fear of being returned to their countries of origin and may qualify for protected status.

¶6. (C) Comment: In requesting this meeting, Feller clearly wanted to send a signal that UNHCR only wants to be involved if the USG views this as helpful, but that it can be accommodating as well. For example, she said she understood the sensitivities involved in looking at case files, but noted that there might be ways in which this could be managed to satisfy UNHCR's basic information needs and to respect the USG sensitivities. Based on previous discussions with the USG, however, she was under no illusion that finding suitable arrangements would be simple.
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